

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)
For
Other Than Full and Open Competition

Acquisition Plan Action ID: VA258-16-AP-4957

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Officer (NCO) 18, 707 East 3rd Street, Big Spring, Texas 79720, intends to enter into contract on behalf of the West Texas VA Health Care System (WTVAHCS), 300 Veterans Blvd., Big Spring, Texas 79720, utilizing Justification for Other Than Full and Open Competition. Purchase request number 519-16-4-984-0146.
2. **Nature and/or Description of the Action Being Processed:** The WTVAHCS requires a Laser Photocoagulation Device for the treatment of patient eye conditions. The government intends to enter into a firm-fixed-price Delivery Order with L1 Enterprises, Inc., 340 West Patrick St., Frederick, MD 21701, under GSA contract number V797P-4176B for the purchase of and installation of this equipment.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The WTVAHCS Ophthalmic Department requires a Laser Photocoagulation device for the treatment of patient eye conditions. The equipment required is highly specialized to perform laser surgical procedures within the eye. Market Research was conducted in accordance with FAR Part 10. FSS schedule 65 II A – Medical Equipment and Supplies; category A-35 – Vision Screening and Test Equipment, has been identified. The schedule category contains three (3) VetBiz verified SDVOSB contractors. Those three (3) contractors were contacted concerning the government's requirement. Of those, two (2) responded that they did not sell the equipment requested by the government. One (1) contractor, L1 Enterprises, Inc., stated that they do provide Laser Photocoagulation equipment and provided brochures of equipment under contract. It was confirmed by the Using Service that this contractor can provide equipment to meet the government's minimum needs.

Estimated Dollar Value:

Required Delivery Date: 30 Days After Receipt of Order (ARO)

4. **Statutory Authority Permitting Other than Full and Open Competition:**
 - ☐ (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
 - ☐ (2) Unusual and Compelling Urgency per FAR 6.302-2;
 - ☐ (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services per FAR 6.302-3;
 - ☐ (4) International Agreement per FAR 6.302-4
 - ☒ (5) Authorized or Required by Statute FAR 6.302-5;
 - ☐ (6) National Security per FAR 6.302-6;
 - ☐ (7) Public Interest per FAR 6.302-7;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Market Research was conducted

in accordance with FAR Part 10. FSS schedule 65 II A – Medical Equipment and Supplies; category A-35 – Vision Screening and Test Equipment, has been identified. The schedule category contains three (3) VetBiz verified SDVOSB contractors. Those three (3) contractors were contacted concerning the government’s requirement. Of those, two (2) responded that they did not sell the equipment requested by the government. One (1) contractor, L1 Enterprises, Inc., stated that they do provide Laser Photocoagulation equipment and provided brochures of equipment under contract. It was confirmed by the Using Service that this contractor can provide equipment to meet the government’s minimum needs.

FAR 8.405-6 – Limiting Sources, does not provide the authority to limit sources based upon socioeconomic status. However, due to Supreme Court decision (Kingdomware Techs. V. United States, No. 14-916, 597 U.S.) Public Law 109-461 applies to GSA, and statutory authority may be utilized. Since L1 Enterprises, Inc. has been verified to be a certified SDVOSB in VetBiz.gov, and they are the only certified SDVOSB who can meet the government’s minimum requirements via FSS contract, it is the Contracting Officer’s determination that utilization of sole source procurement under Public Law 109-461 represents the government’s best interest.

Action authorized under the authority of *Public Law 109-461 § 8127 – Department of Veterans Affairs Goals for Participation by Small Business Owned and Controlled by Veterans in Procurement Contracts – (b) – Use of Noncompetitive Procedures for Certain Small Contracts.*

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Three (3) contractors were identified as certified SDVOSB concerns under FSS schedule 65 II A – Medical Equipment and Supplies; category A-35 – Vision Screening and Test Equipment. All three (3) contractors were contacted concerning Laser Photocoagulation devices. Of those only one (1) could fulfill the government’s requirements.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** In accordance with FAR Part 8.404, GSA has previously determined the prices of supplies and fixed-price services, and rates for services offered at hourly rates, under schedule contractors to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing, except for a price evaluation as required by FAR Part 8.405-2(d). By placing an order against a schedule contract using the procedures in 8.405, the ordering activity has concluded that the order represents the best value for the Government (as defined in FAR 2.101) and results in the lowest overall cost alternative (considering price, specialist features, administrative costs, etc.) to meet the Government’s needs. In addition, pricing will be determined fair and reasonable based upon a discount offered to the government over GSA pricing.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market Research was conducted in accordance with FAR Part 10. FSS schedule 65 II A – Medical Equipment and Supplies; category A-35 – Vision Screening and Test Equipment, has been identified. The schedule category contains three (3) VetBiz verified SDVOSB contractors. Those three (3) contractors were contacted concerning the government’s requirement. Of those, two (2) responded that they did not sell the equipment requested by the government. One (1) contractor, L1 Enterprises, Inc., stated that they do provide Laser Photocoagulation equipment and provided brochures of equipment under contract. It was confirmed by the Using Service that this contractor can provide equipment to meet the government’s minimum needs.

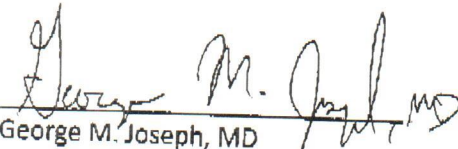
9. Any Other Facts Supporting the Use of Other than Full and Open Competition: None

10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:

L. Enterprises, Inc.
340 West Patrick St.
Frederick, MD 21701

11. A Statement of the Actions, If any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required: At this time there is no mode of overcoming barriers to competition; however, as VetBiz certified SDB/VOSB contractors add Laser Photocoagulation equipment to their FSS contracts, competition will be completed in accordance with FAR Part 8.

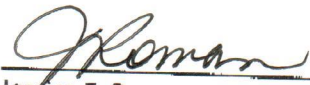
12. Requirements Certification: I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.


George M. Joseph, MD
Ophthalmologist WTVAHCS

9/8/16
Date

13. Approvals in accordance with the:

a. Contracting Officer or Designee's Certification (required): I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.


Jessica E. Roman
Contracting Officer
NCO 18

9/12/16
Date